

REMARKS

In the outstanding official action, claims 4, 6, 8, 11 and 13 were rejected under 35 USC 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, the recitation of multiple limitations having different ranges for different preferability was deemed to render the rejected claims indefinite.

In response, claims 4, 6, 8, 11 and 13 are herewith amended in order to delete the noted point of indefiniteness, and it is respectfully submitted that all of the currently-pending claims, as herewith amended, now fully comply with the requirement of §112.

On the merits, claims 1-13 were rejected under 35 USC 103(a) as being unpatentable over Berge et al, in view of Shenderov, for the reasons of record. In response, it is respectfully submitted that independent claim 1, and the remaining claims depending therefrom, define an invention which is clearly patentably distinguishable over the cited and applied references for the reasons detailed below.

In the Action, it was suggested that Berge teaches an electrowetting module having many of the features of the instant invention, but it is admitted in the Action that Berge fails to explicitly teach molecules having a zero dipole moment. Accordingly, in the Action, Berge was combined with Shinderov,

which was suggested to teach, for example, providing benzene (col. 4, line 14).

In response, it is noted that the instant invention provides the important commercial advantage of allowing variation in the optical power over a larger range than prior art devices. This advantage is achieved based on the insight that by providing a liquid comprising a compound containing molecules having a zero dipole moment in the liquid phase, the optical power and the range of power variation can be increased, as detailed on page 2, line 31-page 3, line 7 of the instant specification. Absent this insight, there would be no apparent reason, absent the benefit of impermissible hindsight derived from the instant disclosure, to combine the cited and applied references in the manner suggested in the Action. Furthermore, even if it is assumed, *arguendo* that the references are properly combinable, it is respectfully submitted that the instant invention is neither shown nor suggested by the combination. Although it is admitted in the Action that Berge fails to explicitly teach molecules having a zero dipole moment as expressly recited in independent claim 1, it is suggested that this deficiency is overcome by the teaching of Shenderov at col. 4, line 14.

More particularly, however, a careful reading of the entire paragraph containing line 14 of col. 4, will establish that the claimed invention is neither shown nor suggested by the cited and

applied references even if taken in combination. Thus, for example, line 12 in the same paragraph teaches that the liquid in question must simply be "less polar" and does not teach that the liquid must have "a zero dipole moment" as presently recited in claim 1. Furthermore, various different fluids are disclosed, thus requiring undue experimentation absent the benefit of impermissible hindsight derived from the instant disclosure to replicate the invention. Absent the insight upon which the instant invention is based (as discussed above and described in the cited text bridging pages 2 and 3 of the instant specification) there is no basis for combining the cited and applied references and for selecting those liquids having a zero dipole moment as expressly recited in independent claim 1.

In view of the foregoing amendments and remarks, it is respectfully submitted that the currently-pending claims now fully comply with the requirement of Section 112 and define an invention which is clearly patentably distinguishable over the cited and applied references. Accordingly, allowance of the instant application is respectfully submitted to be justified at the present time and favorable consideration is earnestly solicited.

Respectfully submitted,

By  _____

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